



# House of Representatives

## File No. 548

General Assembly

February Session, 2010

**(Reprint of File No. 68)**

Substitute House Bill No. 5249  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
April 14, 2010

**AN ACT CONCERNING THE CONFIDENTIALITY OF CERTAIN  
DOCUMENTS AND RECORDS IN PSYCHIATRIC SECURITY REVIEW  
BOARD PROCEEDINGS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 17a-596 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) Prior to any hearing by the board concerning the discharge,  
4 conditional release, temporary leave or confinement of the acquittee,  
5 the board, acquittee and state's attorney may each choose a psychiatrist  
6 or psychologist to examine the acquittee. The results of the  
7 examination shall be in writing and filed with the board, and shall  
8 include, but need not be limited to, an opinion as to whether the  
9 acquittee is a person with psychiatric disabilities or mentally retarded  
10 to the extent that [his] the acquittee's release would constitute a danger  
11 to himself or others and whether the acquittee could be adequately  
12 controlled with treatment as a condition of release. To facilitate  
13 examination of the acquittee, the board may order [him] the acquittee  
14 placed in the temporary custody of any hospital for psychiatric

15 disabilities or other suitable facility or placed with the Commissioner  
16 of Developmental Services.

17 (b) The board shall consider all evidence available to it that is  
18 material, relevant and reliable regarding the issues before the board.  
19 Such evidence may include, but [is] need not be limited to, the record  
20 of trial, the information supplied by the state's attorney or by any other  
21 interested party, including the acquittee, and information concerning  
22 the acquittee's mental condition and the entire psychiatric and criminal  
23 history of the acquittee.

24 (c) Testimony shall be taken upon oath or affirmation of the witness  
25 from whom the testimony is received.

26 (d) Any hearing by the board, including the taking of any testimony  
27 at such hearing, shall be open to the public. At any hearing before the  
28 board, the acquittee shall have all the rights given a party to a  
29 contested case under chapter 54. In addition to the rights enumerated  
30 [thereunder] in chapter 54, the acquittee shall have the right to appear  
31 at all proceedings before the board, except board deliberations, and to  
32 be represented by counsel, to consult with counsel prior to the hearing  
33 and, if indigent, to have counsel provided, pursuant to the provisions  
34 of chapter 887, without cost. At any hearing before the board, copies of  
35 documents and reports considered by the board shall be available for  
36 examination by the acquittee, counsel for the acquittee and the state's  
37 attorney. [The confidentiality of these reports shall be determined  
38 pursuant to sections 52-146c to 52-146j, inclusive.] Psychiatric or  
39 psychological reports concerning the acquittee that are in the  
40 possession of the board shall not be public records, as defined in  
41 section 1-200, except that information in such reports relied on by the  
42 board or used as evidence concerning the discharge, conditional  
43 release, temporary leave or confinement of the acquittee shall not be  
44 confidential. The provisions of sections 52-146c to 52-146j, inclusive,  
45 shall not apply to such reports for the purposes of this section.

46 (e) Upon request of any party before the board, or on its own

47 motion, the board may continue a hearing for a reasonable time not to  
48 exceed sixty days to obtain additional information or testimony or for  
49 other good cause shown.

50 (f) At any hearing before the board, the acquittee, or any applicant  
51 seeking an order less restrictive than the existing order, shall have the  
52 burden of proving by a preponderance of the evidence the existence of  
53 conditions warranting a less restrictive order.

54 (g) A record shall be kept of all hearings before the board, except  
55 board deliberations.

56 (h) Within twenty-five days of the conclusion of the hearing, the  
57 board shall provide the acquittee, [his] the acquittee's counsel, the  
58 state's attorney and any victim as defined in section 17a-601 with  
59 written notice of the board's decision. If there is no victim or the victim  
60 is unidentified or cannot be located, the board shall be relieved of the  
61 requirement of providing notice to the victim.

62 Sec. 2. Section 17a-590 of the general statutes is repealed and the  
63 following is substituted in lieu thereof (*Effective October 1, 2010*):

64 As one of the conditions of release, the board may require the  
65 acquittee to report to any public or private mental health facility for  
66 examination. Whenever medical, psychiatric or psychological  
67 treatment is recommended, the board may order the acquittee, as a  
68 condition of release, to cooperate with and accept treatment from the  
69 facility. The facility to which the acquittee has been referred for  
70 examination shall perform the examination and submit a written  
71 report of its findings to the board. If the facility finds that treatment of  
72 the person is appropriate, it shall include its recommendations for  
73 treatment in the report to the board. Whenever treatment is provided  
74 by the facility, [it] the facility shall furnish reports to the board on a  
75 regular basis concerning the status of the acquittee and the degree to  
76 which [he] the acquittee is a danger to himself or others. The board  
77 shall furnish copies of all such reports to the acquittee, counsel for the  
78 acquittee and the state's attorney. [The confidentiality of these reports

79 shall be determined pursuant to sections 52-146c to 52-146j, inclusive.]  
80 Psychiatric or psychological reports concerning the acquittee that are  
81 in the possession of the board shall not be public records, as defined in  
82 section 1-200, except that information in such reports relied on by the  
83 board or used as evidence concerning the discharge, conditional  
84 release, temporary leave or confinement of the acquittee shall not be  
85 confidential. The provisions of sections 52-146c to 52-146j, inclusive,  
86 shall not apply to such reports for the purposes of this section. The  
87 facility shall comply with any other conditions of release prescribed by  
88 order of the board.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2010</i>	17a-596
Sec. 2	<i>October 1, 2010</i>	17a-590

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill clarifies that certain information contained in psychiatric or psychological reports concerning an acquittee is not considered confidential, and has no fiscal impact.

House "A" adds clarifying language and has no fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sHB 5249 (as amended by House "A")\******AN ACT CONCERNING THE CONFIDENTIALITY OF CERTAIN DOCUMENTS AND RECORDS IN PSYCHIATRIC SECURITY REVIEW BOARD PROCEEDINGS.*****SUMMARY:**

This bill makes public certain mental health information about people under the supervision of the Psychiatric Security Review Board (PSRB) after they are acquitted of a crime due to a mental disease or defect (acquittees). It applies to otherwise-confidential psychological or psychiatric information that the acquittee or PSRB used as evidence in a public hearing concerning the acquittee's release, conditional release, temporary leave, or confinement. Under current law, such information is not a public record and disclosure is protected by the psychologist- or psychiatrist-patient privilege (confidentiality) rules. There is no provision in current statute concerning temporary leaves.

The bill also makes the same change for disclosure rules that apply to mental status examinations acquittees must undergo while conditionally released in the community.

Finally, the bill requires PSRB to hold a hearing before granting a request for a temporary leave. Currently, hearings are required only for decisions to discharge, conditionally discharge, or continue the acquittee's confinement.

\*House Amendment "A" adds disclosure provisions for mental status examinations.

EFFECTIVE DATE: October 1, 2010

**COMMITTEE ACTION**

## Judiciary Committee

## Joint Favorable Substitute

Yea 34 Nay 0 (03/03/2010)

## Government Administration and Elections Committee

## Joint Favorable

Yea 7 Nay 1 (04/05/2010)